

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**MORPHO KOMODO LLC,**

Plaintiff,

v.

**BLU PRODUCTS INC.,**

Defendant.

**2:15-cv-01100-JRG-RSP (LEAD CASE)**

**JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT**

Plaintiff Morpho Komodo, LLC, (“MK” or “Plaintiff”) and defendants BLU Products Inc., PCS Wireless, LLC,<sup>1</sup> Dell Inc., Sharp Electronics Corporation, and InfoSonics Corporation d/b/a VeryKool (collectively “Defendants”), hereby submit their Joint Claim Construction and Prehearing Statement pursuant to Local Patent Rule 4-3 and the Court’s Docket Control Order.

**A. Agreed Constructions**

The parties agree to the construction of the following terms from U.S. Patent No. 725,725 (the “725 Patent”), U.S. Patent No. 7,350,078 (the “078 Patent”), and U.S. Patent No. 8,429,415 (the “415 Patent”) (collectively, the “Asserted Patents”).

	<b>Claim Terms</b>	<b>Agreed Constructions</b>	<b>Claim No.</b>
<b>1.</b>	<b>predetermined degree of inexactness</b>	“a preset allowable measure of deviation from the recorded signal passively terminating”	725 Patent: 4, 14 078 Patent: 5
<b>2.</b>	<b>designated tolerance of inexactness</b>	“a preset allowable measure of deviation from the recorded signal passively terminating”	078 Patent: 13 415 Patent: 5

<sup>1</sup> Defendant PCS Wireless, Inc. is an incorrectly named entity not affiliated with Defendant PCS Wireless, LLC.

<b>3.</b>	<b>passively terminating</b>	“stopping without overt user action when a predetermined condition is met”	725 Patent: 12 078 Patent: 4
<b>4.</b>	<b>Signal type</b>	“category of measurable variable input associated with a signal from at least one user-selectable input device”	725 Patent: 1, 10, 15, 17 078 Patent: 1, 3, 9, 15 415 Patent: 1, 12, 13

### B. Disputed Claim Terms

The parties dispute the construction of the below terms from the Asserted Patents.

	<b>Claim Terms</b>	<b>Claim No.</b>
<b>1.</b>	<b>computer</b>	725 Patent: 1, 10, 15, 078 Patent: 1, 9 415 Patent: 2
<b>2.</b>	<b>input device</b>	078 Patent: 13 415 Patent: 5
<b>3.</b>	<b>user-selected device / user-selected input device</b>	725 Patent: 1, 2, 10, 15, 19 078 Patent: 1, 2, 9, 10, 20, 22
<b>4.</b>	<b>measurable variable input</b>	725 Patent: 1, 10, 15 078 Patent: 1, 9 415 Patent: 13
<b>5.</b>	<b>signal</b>	725 Patent: 1, 2, 10, 15, 17 078 Patent: 1, 2, 4 415 Patent: 1

<b>6.</b>	<b>signature</b>	725 Patent: 1, 4, 10, 14, 15, 17  078 Patent: 1, 4, 5, 8, 9, 13, 14  415 Patent: 1, 5, 11, 12
<b>7.</b>	<b>wherein creating said signature using recorded signals from a plurality of signal types</b>	725 Patent: 17
<b>8.</b>	<b>wherein passively terminating said recording</b>	725 Patent: 12
<b>9.</b>	<b>wherein recording a plurality of signal types for at least one user-selected device</b>	725 Patent: 15
<b>10</b>	<b>wherein said recording comprises a plurality of user-selected devices</b>	078 Patent: 10

As shown in the above list, there are eleven (11) terms for which the parties submit competing constructions. In the claim chart attached as Exhibit A, Plaintiff and Defendants propose claim constructions for the disputed claim terms/phrases from the Asserted Patents and identify intrinsic evidence upon which they may rely to support their proposed constructions.

Each party expressly reserves the right (subject to the other parties' objections, if any) to amend, correct, or supplement its claim construction positions and supporting evidence in response to any change of position by the other party, in response to information received through claim construction discovery, including inventor depositions and expert depositions concerning claim construction declarations, or for other good cause.

### **C. Anticipated Length Of Time Necessary For The Claim Construction Hearing**

The Court set the claim construction hearing to begin at 9:00 p.m. on May 10, 2016. *See* Dkt. No. 95-1. The parties anticipate that the Claim Construction Hearing will require a total of no more than three (3) hours. The parties request that the time permitted by the Court should be divided equally between the parties, with half of the time allotted for Plaintiff's arguments, and half of the time allotted for Defendants' arguments.

**D. Witnesses**

The parties reserve the right to call witnesses for the Claim Construction Hearing.

**E. Other Issues**

The parties do not believe there are any other issues that need to be addressed at the pre-hearing conference prior to the Claim Construction Hearing.

Dated: March 4<sup>th</sup>, 2016

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A).

/s/ Eugenio J. Torres-Oyola  
Eugenio J. Torres-Oyola

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that counsel has complied with the meet and confer requirement in Local Rule CV-7(h), and that this motion expresses the parties' position.

/s/ Eugenio J. Torres-Oyola  
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